

REMARKS

Amendments to the Specification have been made to address typographical errors and omissions. Certain amendments are particularly supported by the original drawings.

Claims 1-33 were originally submitted.

No claims are canceled or amended.

No new claims have been added.

Claims 1-33 remain in this application.

35 U.S.C. §102

Claims 1-5, 8-15, 18-21, and 25-33 are rejected under 35 U.S.C. 102(e) as being anticipated to by U.S. published application 2002/0032232 to Zombek et al (Zombek). Applicants respectfully traverse the rejection.

Independent claim 1 recites in part "a network gateway, coupled to each of the server and the wireless host, to establish a communication channel from the server to the wireless host through both the wireline network and the wireless network, wherein the communication channel includes a transport layer protocol with control parameters for each of the wireline network and the wireless network".

Zombek teaches a messaging system that includes a client device having a client application; a server having a server application, and a plurality of wireless networks. The system may support one or more wireless network access protocols by specific protocol gateways. In particular, Zombek is directed to providing communication (i.e., communicated messages) between the client application and the server application over a selected wireless network protocol through a protocol

1 gateway independent of the selected wireless network protocol. See paragraph
2 [0016] of Zombek.

3 Zombek teaches a number of protocol gateways which support different
4 network access protocols. In particular, paragraph [0072] of Zombek recites “[a]
5 number of the protocol gateways (PGs) 116a, 116b and 116c, collectively PGs
6 116, can be configured to support a specific network access protocol”.

7 Different protocol gateways are provided for each of the network access
8 protocols that the system supports. In particular, paragraph [0073] of Zombek
9 recites “For each network access protocol that the intelligent messaging network
10 supports, a corresponding PG 116 can support that network access protocol”.

11 Claim 1 recites “a network gateway, coupled to each of the server and the
12 wireless host, to establish a communication channel from the server to the wireless
13 host through both the wireline network and the wireless network”.

14 The Office presents that the “network gateway” is taught by Zombek, citing
15 paragraph [0021] lines 9-11 of Zombek and further pointing to Fig. 1A of
16 Zombek.. However, as discussed above, Zombek relies on multiple protocol
17 gateways that support different network access protocols.

18 Furthermore, the Examiner has not addressed how Zombek teaches that one
19 of the protocol gateways 116 to establish “a communication channel from the
20 server to the wireless host through both the wireline network and the wireless
21 network” as recited in claim 1.

22 The Examiner seemingly relies on personal knowledge without pointing to
23 any specific teaching. Specifically, the Examiner merely contends that “the
24 wireless clients and the client that need to access the intelligent messaging network
25 ... via a wired connection or dial-up line (Zombek, [0021], 1.9-21).” The

1 Examiner fails to point out where in Zombek, a single "network gateway ... to
2 establish a communication channel form the server to the wireless host through
3 both the wireline network and the wireless network"

4 According to 37 CFR §1.104(d)(2), "[w]hen a rejection in an application is
5 based on facts within the personal knowledge of an employee of the office, the
6 data shall be as specific as possible, and the reference must be supported, when
7 called for by the applicant, by the affidavit of such employee, and such affidavit
8 shall be subject to contradiction or explanation by the affidavits of the applicant
9 and other persons." If this rejection is maintained on a similar basis in a
10 subsequent action, the applicant respectfully requests the Examiner to supply such
11 an affidavit to support this modification of Zombek. Otherwise, and without
12 additional support, it is respectfully submitted the Examiner's conclusion does not
13 represent the conclusion of a person of ordinary skill at the time of invention

14 Accordingly, Zombek does not teach every element of claim 1, and the
15 rejection of claim 1 is therefore improper. Applicants respectfully request that the
16 §102 rejection of claim 1 be withdrawn.

17 **Dependent claims 2-5, 8-15, and 18** depend from and comprise all the
18 elements of claim 1. As such, dependent claims 2-5, 8-15, and 18 are allowable by
19 virtue of their dependency on base claim 1. Applicants respectfully request that
20 the §102 rejection of claims 2-5, 8-15, and 18 be withdrawn.

21 **Independent claim 19** recites in part "establishing a communication
22 channel to service the request between the wireless host and the network server
23 over a wireless network and a wireline network coupled to the server".

24 The Office presents the same argument used in the rejection of claim 1, in
25 rejecting claim 19. Applicants present the arguments presented above in support

1 of claim 1 in support of claim 19. In particular, Applicants present that Zombek
2 fails to teach establishing a communication channel over a wireless network and a
3 wireline, as discussed above in support of claim 1.

4 Accordingly, Zombek does not teach every element of claim 19, and the
5 rejection of claim 19 is therefore improper. Applicants respectfully request that
6 the §102 rejection of claim 19 be withdrawn.

7 **Dependent claims 20-21, and 25-29** depend from and comprise all the
8 elements of claim 19. As such, dependent claims 20-21, and 25-29 are allowable
9 by virtue of their dependency on base claim 19. Applicants respectfully request
10 that the §102 rejection of claims 20-21, and 25-29 be withdrawn.

11 **Independent claim 30** recites in part "a fading parameter which, when
12 asserted, provides a receiving network element with an indication that a
13 communicatively coupled wireless host just emerged from a fading condition".

14 The Office presents the same arguments that are presented in rejecting
15 claims 3, 6, and 8, in the §102 rejection of claim 30; however, there is no mention
16 in these arguments as to where Zombek teaches or discloses a fading parameter as
17 recited in claim 30. Furthermore, the Examiner contends that the "fading
18 parameter depends on the transmission frequency and the mobile unit". Claim 30
19 recites in the preamble "[a] transport layer protocol to facilitate streaming of media
20 content across heterogeneous networks, the protocol comprising ..." An element
21 of claim 30 being "a fading parameter which, when asserted, provides a receiving
22 network element with an indication that a communicatively coupled wireless host
23 just emerged from a fading condition".

24 The Examiner fails to point out where in Zombek it is taught "transport
25 layer protocol ... comprising ... fading parameter" as recited in claim 30.

1 According to 37 CFR §1.104(d)(2), "[w]hen a rejection in an application is
2 based on facts within the personal knowledge of an employee of the office, the
3 data shall be as specific as possible, and the reference must be supported, when
4 called for by the applicant, by the affidavit of such employee, and such affidavit
5 shall be subject to contradiction or explanation by the affidavits of the applicant
6 and other persons." If this rejection is maintained on a similar basis in a
7 subsequent action, the applicant respectfully requests the Examiner to supply such
8 an affidavit to support this modification of Zombek. Otherwise, and without
9 additional support, it is respectfully submitted the Examiner's conclusion does not
10 represent the conclusion of a person of ordinary skill at the time of invention

11 Accordingly, Zombek does not teach every element of claim 30, and the
12 rejection of claim 30 is therefore improper. Applicants respectfully request that
13 the §102 rejection of claim 30 be withdrawn.

14 **Dependent claims 31-32** depend from and comprise all the elements of
15 claim 30. As such, dependent claims 31-32 are allowable by virtue of their
16 dependency on base claim 30. Applicants respectfully request that the §102
17 rejection of claims 31-32 be withdrawn.

18 **Independent claim 33** recites in part "a fading parameter which, when
19 asserted, provides a receiving network element with an indication that a
20 communicatively coupled wireless host just emerged from a fading condition".

21 The Office presents the same arguments that are presented in rejecting
22 claim 1, in the rejection of claim 33; however, there is no mention in these
23 arguments as to where the fading parameter as recited in claim 33 is taught or
24 disclosed.

25

1 Accordingly, Zombek does not teach every element of claim 33, and the
2 rejection of claim 33 is therefore improper. Applicants respectfully request that
3 the §102 rejection of claim 33 be withdrawn.

4
5 **35 U.S.C. §103**

6 **Claims 6-7, 16-17, and 22-24** are rejected under 35 U.S.C. 103(a) as being
7 unpatentable over Zombek as applied to claim 1 above, and in further view of U.S.
8 published application 2002/0097722 to Liao et al.

9 **Claims 6-7 and 16-17** depend from base claim 1 and therefore comprise the
10 element "a network gateway, coupled to each of the server and the wireless host, to
11 establish a communication channel from the server to the wireless host through
12 both the wireline network and the wireless network, wherein the communication
13 channel includes a transport layer protocol with control parameters for each of the
14 wireline network and the wireless network".

15 Liao is particularly cited by the Office for its teaching of a system to
16 identify degradation in transmission quality in a wireless network component
17 resulting from fading and/or multipath conditions, and to issue a fading condition
18 control parameter to the network via a transport layer protocol. Liao paragraph
19 [0104], lines 1-11.

20 However, Liao provides no assistance in light of Zombek as to the recited
21 systems of claims 6-7 and 16-17. Since Zombek does not teach "a network
22 gateway ... to establish a communication channel from the server to the wireless
23 host through both the wireline network and the wireless network, wherein the
24 communication channel includes a transport layer protocol with control parameters
25 for each of the wireline network and the wireless network", it would not have been

1 obvious to combine the "system to identify degradation in transmission quality in a
2 wireless network component resulting from fading and/or multipath conditions,
3 and to issue a fading condition control parameter to the network via a transport
4 layer protocol" taught by Liao.

5 Accordingly, a combination of Zombek and Liao is improper. Applicants
6 respectfully request that the §103 rejection of claims 6-7 and 16-17 be withdrawn.

7 **Claims 22-24** depend from base claim 19 and therefore comprise the
8 element "establishing a communication channel to service the request between the
9 wireless host and the network server over a wireless network and a wireline
10 network coupled to the server".

11 The Office presents the same arguments in rejection of claims 6-7 and 16-
12 17 in rejecting claims 22-24. Applicants present the arguments in support of
13 claims 22-24 in support of claims 6-7 and 16-17.

14 Accordingly, a combination of Zombek and Liao is improper. Applicants
15 respectfully request that the §103 rejection of claims 22-24 be withdrawn.

CONCLUSION

All pending **claims 1-33** are in condition for allowance. Applicant respectfully requests reconsideration and prompt issuance of the subject application. If any issues remain that prevent issuance of this application, the Examiner is urged to contact the undersigned attorney before issuing a subsequent Action.

Respectfully Submitted,

Dated: 6/1/05By: 

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